

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

| | |
|--------------------------------------|--|
| Complainant: | Mr S |
| Licensee: | Sportsbet |
| Proceedings: | Pursuant to section 85(2) of the <i>Racing and Betting Act</i> – Referral of dispute to Racing Commission for determination |
| Heard Before: (on papers) | Ms Cindy Bravos (Presiding Member) Ms Amy Corcoran Mr Allan McGill |
| Date of Decision: | 14 February 2019 |

Background

1. On 23 June 2017, pursuant to section 85(2) of the *Racing and Betting Act* (the Act), the Complainant lodged a gambling dispute with the Northern Territory Racing Commission (the Commission) against the licensed sports bookmaker, Sportsbet.
2. The Complainant is seeking a refund of \$700,000 being the approximate amount of deposits he made into his wagering account between March 2016 when the Complainant opened his wagering account with Sportsbet and June 2016 when the Complainant closed his wagering account with the sports bookmaker.
3. The Complainant is of the view that Sportsbet failed to take appropriate steps to assess his financial capacity to wager large sums of money and that they took advantage of his gambling addiction. The Complainant when lodging his dispute with the Commission stated that:

They never checked if i (sic) could afford the huge bets

They never contact me to get more info if i (sic) had any income or never asked for proof of where the money came from like bank statements for example or any of that stuff

Once the money were (sic) all gone I slowed down my gambling betting and they kept harassing me with emails and bonuses even after I've asked them to stop, to make them stop i (sic) had to call several times the manager and tell him if they kept going i (sic) would inform my lawyer to make them stop, only then they have stopped.

4. The Complainant also advised the Commission that he had “...won a lot of money on poker exactly 1.3M and this has nothing to do with Sportsbet until i (sic) start blowing my money gambling via Sportsbet...” and that he was suffering psychological problems as a result and was receiving therapy.
5. The Complainant further advised the Commission that he had to speak with three separate representatives from Sportsbet in order to close his account because “...they were trying to convince me to keep my account as once you close it you

can't reopen it." The Complainant stated that one of these calls took at least 30 minutes. Additionally, the Complainant advised the Commission that *"[a]t night a bookmaker called me to try and give me a bigger bonus to keep me as a client and then I finally snapped against the bookmaker that he must closed (sic) the account..."*

6. The Complainant further complains that once the wagering account was closed, that Sportsbet emailed him on almost a daily basis and that *"...I had to call several times a bookmaker "on his private phone" to stop that (sic) emails as they were daily."* Additionally, the Complainant advised the Commission that when he contacted Sportsbet about a year later to access his wagering activity that he had to speak to two different Sportsbet representatives to access the information.
7. The Complainant advised the Commission that about a year after closing his wagering account with Sportsbet, he opened an account with a different sports bookmaker (incidentally another Northern Territory licensed sports bookmaker) and after having gambled approximately \$40,000 in two months with that sports bookmaker, they blocked his account. Whilst he advised this sports bookmaker that he could afford to gamble these amounts, he advised the Commission that this sports bookmaker sought proof of his earnings and assets including bank statements. The Complainant advises that as a result of not providing his bank statements to this sports bookmaker, his account was closed.
8. The Complainant advised the Commission that in relation to Sportsbet that:

No of course i (sic) didn't inform the bookmaker that i (sic) was compulsive gambler because i (sic) wanted my money back but they didn't make any checks as they are supposed to do but i (sic) believed that they knew that i (sic) couldn't afford the big bets because they never asked me bank statements and also for my deposit patters.
9. In response to the dispute, Sportsbet advised the Commission that the lifetime loss on the account was \$184,586 and not the \$700,000 as claimed by the Complainant. Sportsbet further advised the Commission that they had made contact with the Complainant within 30 days of the Complainant's wagering account being opened following the placement of a large wager by the Complainant and due to the Complainant's betting activity. During that contact, Sportsbet advised the Commission that the Complainant stated that he *"...was only betting with 10% of his bank account and that he was betting within his limits."* Sportsbet advised the Commission that during the contact with the Complainant, the Complainant also advised that he had made over \$1.5 million in the previous year and \$500,000 in the current year playing online poker and that the wagers that the Complainant was making were only a small portion of what was in his bank account.
10. Sportsbet further advised the Commission that at this time, the sports bookmaker also undertook an 'Enhanced Customer Due Diligence' review of the Complainant as prescribed by the *Anti-Money Laundering and Counter-Terrorism Financing Act* guidelines to confirm the Complainant's source of wealth and source funds. Sportsbet advised the Commission that they *"...felt there was adequate financial information (through the ECDD and the call with the customer...) to determine if [the Complainant] could place such large bets."*
11. Sportsbet advised the Commission that whilst it does not consider that a refund of the Complainant's deposits into his wagering account is warranted, they are willing

to assist the Complainant through providing a sum of \$2,000 to offset the cost of the counselling that the Complainant is currently undertaking with respect to his gambling issues.

12. Information was gathered from both parties by Licensing NT betting inspectors appointed by the Commission and provided to the Commission to consider the dispute on the papers.

Chronology

13. The Complainant opened his wagering account with Sportsbet on 9 March 2016 with deposit of \$50,000. The Complainant then bet the full amount on the outcome of a soccer match and lost the full amount.
14. Sportsbet advised the Commission that also on 9 March 2016, the Complainant's account triggered the commencement of an 'Enhanced Customer Due Diligence' process on the Complainant to determine the source of the Complainant's funds and wealth due to the value of deposits made at that time. During this process, Sportsbet made contact with the Complainant's bank who advised Sportsbet according to the Sportsbet 'Enhanced Customer Due Diligence' record provided to the Commission that the Complainant *"...has had a large balance and for an established amount of time..."* and that *"...confirmed with [the bank] that the client has maintained healthy funds for sometime (sic) with no concern from their end."*
15. On 10 March 2016, the Complainant made a further deposit into his wagering account of \$100,000. Sportsbet advised the Commission that on this day *"...as part of Sportsbet's transaction monitoring process required under our AML/CTF Program, the Customer Security Team placed blocks on the customer's account...for the customer to verify the funding source (in this case a credit card). [The Complainant] provided a copy of his credit card the same day..."*
16. On 11 March 2016, the Complainant made a further two \$50,000 bets which were winning wagers resulting in a wagering account balance of \$532,515.63. The Complainant withdrew \$502,515.63 from his wagering account on the same day, leaving a balance of \$30,000.
17. Between 11 March 2016 and 27 March 2016, the Complainant continued to wager with little success. During this period the Complainant deposited a total of \$270,000 into his wagering account and made no withdrawals. The Complainant's wagering account balance on 27 March 2016 was 7 cents.
18. On 31 March 2016, the Complainant made two further deposits into his wagering account totalling \$198,000. On this same day, the Complainant placed a wager of \$198,000 on a four leg multi with first leg commencing on 3 April 2016 and the final leg occurring on 4 April 2016.
19. As part of the Sportsbet's 'Enhanced Customer Due Diligence' process, on 1 April 2016 prior to the first leg of the above wager commencing, a Customer Risk Manager from Sportsbet made contact with Complainant in relation to the wager and the Complainant's recent betting activity. The call lasted 8 minutes and 54 seconds and following introductions and an account identification process, the Customer Risk Manager advised the Complainant that the reason for contact was due to the placement of *"...a very large outstanding bet that you placed...of*

\$198,000.” The Sportsbet representative advised the Complainant that when bets are made of this size, that they make contact with the customers to “...talk about their account...just to make sure you understand responsible gambling and to make sure you understand the type of bet that you placed.” During this call, the Complainant advised Sportsbet that “...I’m not even placing a bet that is 10% of my account.”

20. The Sportsbet representative went on to ask the Complainant what he did for a living to which the Complainant advised Sportsbet that he played online poker. The Complainant further advised Sportsbet that he made over \$1,500,000 last year and had made \$500,000 this year playing poker. The Sportsbet representative advised that “...we want to make sure that you’re betting within your means...” to which the Complainant responded that “...if this bet won’t go quite good I’ll probably give it up, give it a stop for a little bit.”
21. Sportsbet advised the Commission that the ‘Enhanced Customer Due Diligence’ process resulted in the Complainant being rated as a medium level of risk which according to Sportsbet’s internal procedures required Sportsbet to flag the Complainant and to continue to monitor the Complainant’s account.
22. The four leg multi wager referred to in paragraph 18 eventually resulted as a losing wager. The Complainant continued to deposit monies into his wagering account in ever decreasing amounts and continued to wager with the outcomes of these wagers being predominantly losing wagers which eventually resulted in the Complainant’s wagering account balance being zero as at 4 June 2016. No further withdrawals from the account were made during this time.
23. Sportsbet advised the Commission that on 6 June 2016 following the Complainant contacting Sportsbet to close his account, the process to close the Complainant’s accounts commenced. Sportsbet contacted the Complainant on 7 June 2016 to explain the account closure options during which time Sportsbet advised the Commission that the Complainant confirmed that he wished to close his account “...due to not receiving enough bonus bets.”
24. Sportsbet provided the Commission with a record of ‘Customer services’ in which it is recorded that on 8 June 2016, Sportsbet called the Complainant “...to see if he wanted it closed and he advised advised him about permanent being for his lifetime but he still wanted it and could not talk him out of it”.
25. On 8 June 2016, Sportsbet sent an email to the Complainant advising that it had actioned the Complainant’s request for a ‘Lifetime Exclusion’ from Sportsbet.
26. Sportsbet further advised the Commission that the Complainant contacted Sportsbet three times during June 2016 to advise that he was receiving emails from marketing and that he wanted this to stop. Sportsbet advised that this issue was resolved on 23 July 2016 when the Complainant was removed from the ‘High Value’ email group which was the cause for the continued emails.
27. On 23 June 2017 some 12 months since the Complainant’s wagering account was closed with Sportsbet, the Complainant lodged a gambling dispute with the Commission. The Complainant also advised Sportsbet on this date that he was lodging a complaint with the Commission.

Consideration of the Issues

28. It is the view of the Commission that problem gambling is the most serious of issues and as such, holds all sports bookmaker operators licensed in the Northern Territory to a high standard with regards to any breaches.
29. All Northern Territory licensed sports bookmakers' licence conditions and obligations under the Act require compliance with the *Northern Territory Code of Practice for Responsible Online Gambling (the Code)*.
30. The Code sets out certain practices to be adopted by licensed sports bookmakers in the provision of their services, so as to minimise the harm to consumers that may be adversely affected by gambling.
31. The Code amongst other things, requires that licensed sports bookmakers must provide responsible gambling training including regular refresher training, to all employees engaged in client interaction and that this training should include tools to identify gambling Red Flag behaviours. This Red Flag behaviour training is mandated so that licensed sports bookmakers can identify and assist clients with gambling related problems. Red flag behaviours include but are not limited to gambling for extended periods; changing gambling patterns; increase in deposit frequency; escalating sums of money deposited and accusing the gambling operator of remarks that may indicate serious overspending.
32. The Courts have set a very high threshold of responsibility for the gambler as to their own actions and that the duty to cease gambling remains with the individual gambler and not the gambling operator. It is only in the most extreme cases of deliberate and gross misconduct by the operator who has knowledge of the vulnerability of the problem gambler, that there would be any duty owed to prevent loss.
33. It is evident from the chronology set out above that the first deposit made by the Complainant into his wagering account of \$50,000 triggered an immediate reaction from Sportsbet through its commencement of an 'Enhanced Customer Due Diligence' process on the Complainant to determine the source of the Complainant's funds. Unknown to the Complainant, Sportsbet made contact with the Complainant's bank who verified that the Complainant had a large account balance that he had maintained for some time and from the bank's perspective, there were no concerns.
34. The next day following the Complainant making a further large deposit into his wagering account, Sportsbet placed a block on the Complainant's account until the Complainant verified his funding source. Once this process was completed, the Complainant made a number of successful wagers after which the Complainant withdrew over half a million dollars from his wagering account.
35. The Complainant continued to wager (after depositing a total of \$270,000 back into his account) over the next few weeks. The Complainant then made further deposits to the value of \$198,000 and following the placement of a wager to the same value, Sportsbet again made contact with the Complainant to ascertain his source of wealth to ensure that the Complainant was betting within his means. The Complainant assured Sportsbet that he was betting within his limits.

36. The Complainant continued to wager with Sportsbet until 4 June 2016. On 6 June 2016, the Complainant requested Sportsbet to close his account which was actioned on 8 June 2018.
37. It is clearly apparent that the deposit and betting activities of the Complainant were identified as potential Red Flag behaviours by Sportsbet as required by the Code and which resulted in Sportsbet initiating a number of procedures including making contact with the Complainant's bank, verifying his credit card and making contact with the Complainant himself - with the first of these initiatives being the commencement of the 'Enhanced Customer Due Diligence' actioned on the very same day of the Complainant's account being opened. It is also apparent that the Complainant was unaware of the verification process undertaken by Sportsbet with the Complainant's bank which confirmed he had adequate funds to be making large deposits with the sports bookmaker.
38. It is not a matter for the Commission to comment on the size of the wagers made by the Complainant nor on his betting activities in totality. The Complainant is responsible for his own wagering activity albeit that in this case, the size of those wagers (and their resultant wins and losses) to many would seem excessively large. The Commission notes that an inherent risk in the activity of gambling is a loss of money that cannot be avoided.
39. The Commission's role in dealing with this complaint is not to simply rectify self-inflicted economic losses from gambling following the making of a complaint to the Commission but rather, to make a finding as to whether the sports bookmaker acted in compliance with the Act, its licence conditions and the Code. The latter of which, mandates that all staff of a sports bookmaker must regularly be provided with Red Flag behaviour training so that operators can identify and assist customers with gambling related problems. In this matter, the Complainant displayed a number of Red Flag behaviours which were identified by Sportsbet employees and resulted in Sportsbet proactively making contact with both the Complainant's bank and the Complainant to ascertain whether the Complainant had sufficient wealth to engage in the wagering activity he was undertaking and was not suffering from gambling related problems.
40. In this regard, the Commission is of the view that Sportsbet's actions in verifying that the Complainant had sufficient wealth to engage in the wagering activity that he was undertaking promoted a responsible gambling environment as required by the Code. The duty to cease gambling rested with the Complainant and not the sports bookmaker despite the fact that he ultimately suffered economic loss.
41. During the investigation of this complaint by Licensing NT betting inspectors, it has however come to the attention of the Commission that Sportsbet was unable to provide the Commission with all emails and voice recordings of the interactions between Sportsbet and the Complainant. The Commission does not consider that had these recordings been available that it would have come to a different finding in relation to the primary issue of complaint however in this regard, it is important to note that Condition 20 of Sportsbet's licence conditions states that:

The Sports Bookmaker will ensure that all conversations with customers involving discussions relating to wagers, complaints or disputes, regardless of medium, are recorded on approved recording equipment.

42. Sportsbet advised the Commission that “...we confirm that all telephone calls between [the Complainant] and his VIP Manager were conducted on a mobile telephone. The reason these calls were conducted not on a recorded telephone line is because these calls were purely relationship and customer service calls.” Sportsbet advised the Commission that in their view they have complied with Condition 20 of the licence as none of those telephone calls related to a wager, complaint or dispute.
43. Given that the Commission does not have access to recordings of the telephone calls between the Complainant and his Sportsbet VIP manager, it is difficult to ascertain the veracity of this statement. The Commission is however, of the view that it is likely that at least to some extent, these calls would have necessarily touched on the Complainant’s wagering activity with Sportsbet as it is unlikely that Sportsbet provides its high wealth customers with access to their own VIP manager to discuss ‘relationship and service’ matters that are completely unrelated to that customer’s wagering activity.

Decision

44. On the weight of evidence provided, the Commission is satisfied that Sportsbet adhered to the Code and implemented sufficient proactive measures to verify that the Complainant was wagering within his limits. These actions by Sportsbet are in line with the Code’s requirement to promote a responsible gambling environment. As a result, the Commission is satisfied that Sportsbet has not breached a condition of its licence in this regard.
45. The Commission however, finds that Sportsbet has pursuant to section 80(1)(d) of the Act failed to comply with a condition of its licence (namely Condition 20), in that it failed to record all conversations with the Complainant that related to wagers, complaints or disputes. In this respect, the Commission is of the view that a reprimand is appropriate in the circumstances.

Review of Decision

46. Section 85(6) of the Act provides that a determination by the Commission of a dispute referred to it pursuant to section 85 of the Act shall be final and conclusive as to the matter in dispute.



Cindy Bravos
Presiding Member
Northern Territory Racing Commission

14 February 2019